

AMENDED IN ASSEMBLY JUNE 25, 2002

**SENATE BILL**

**No. 1849**

---

**Introduced by Committee on Budget and Fiscal Review**

February 22, 2002

---

~~An act relating to education finance, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 17276.3, 23457, 24348, 24416.3, 24449, and 40016 of, to add Article 4 (commencing with Section 30133) to Chapter 2 of Part 13 of Division 2 of, and to add and repeal Sections 17041.1 and 19444 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1849, as amended, Committee on Budget and Fiscal Review. ~~Education finance- Taxation.~~

~~The proposed Budget Act of 2002 includes appropriations for the support of elementary and secondary education and community colleges. Existing provisions of the California Constitution establish a method of calculating the minimum funding obligation to school districts and community college districts for each fiscal year.~~

~~This bill would express the intent of the Legislature to make the necessary statutory changes to implement the Budget Act of 2002 relative to elementary and secondary education, community colleges, and the state's minimum funding obligation to school districts and community college districts under Section 8 of Article XVI of the California Constitution for prior fiscal years.~~

~~The California Income Tax Law and Bank and Corporation Tax Law impose a tax measured by income, as specified. Any unpaid taxes due~~

and payable under those laws are subject to penalties, interest, and any expenses and fees associated with the collection of the taxes owed.

This bill for the period beginning on October 1, 2002, and ending on June 30, 2003, would authorize the Franchise Tax Board to forgive any penalties, interests, or fees on unpaid taxes owed by eligible taxpayers, as defined, to the extent that the underlying tax liability is reduced by an eligible amount, as defined.

Existing law allows individual and corporate taxpayers to utilize net operating loss carryovers for purposes of offsetting their individual and corporate tax liabilities.

This bill would prevent these taxpayers from utilizing net operating loss carryovers in the 2002 and 2003 taxable years. The bill would extend the carryover period for the net operating losses, allowing the taxpayers to have the same number of years to utilize the loss as they would have if the change had not been enacted.

Under the Personal Income Tax Law, taxes are imposed at specified rates up to a maximum of 9.3% based on the amount of the taxpayer's taxable income and a maximum of 7% based on the taxpayer's alternative minimum taxable income.

This bill would, for taxable years beginning on or after January 1, 2002, and before a specified fiscal threshold is reached, impose 10% and 11% maximum rates for taxpayers with taxable incomes over certain amounts, and impose an 8.5% maximum rate based upon the taxpayer's alternative minimum taxable income.

The Bank and Corporation Tax Law, in specified conformity to federal income tax laws allows a deduction for bad debts, except that, among other things, the deduction of a savings and loan association, or bank or financial corporation is determined in accordance with special rules that allow a deduction for a reasonable addition to a reserve for bad debts.

This bill would, with respect to banks, modify that special rule to provide additional conformity to federal income tax laws relating to reserves for losses on loans of banks, except as otherwise provided. This bill would also make related changes with respect to the alternative minimum tax.

The Energy Surcharge Law imposes a surcharge on the consumption of electrical energy purchased from an electric utility at a rate fixed by the State Board of Equalization, as specified.

This bill would, with respect to electrical energy purchased from an electric utility on or after January 1, 2003, require that the rate not



*exceed \$0.0003 per kilowatt-hour; or a lower rate fixed by the Energy Commission at a public meeting held each November for the following calendar year.*

*The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), and the California Families and Children Act of 1998 (Proposition 10).*

*This bill would, beginning on September 1, 2002, impose an additional tax on the distribution of cigarettes at the rate of 25 mills for each cigarette distributed. The revenues collected from this additional tax would be deposited in the General Fund.*

*This bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

*Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.*

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. It is the intent of the Legislature by enacting this~~
- 2     SECTION 1. Section 17041.1 is added to the Revenue and
- 3     Taxation Code, to read:
- 4     17041.1. (a) Notwithstanding any other provision of law, all
- 5     of the following apply:
- 6     (1) (A) For any taxable year beginning on or after January 1,
- 7     2002, and before the Director of Finance certifies pursuant to
- 8     subdivision (b) that the prudent reserve threshold has been met, the
- 9     income tax brackets and rates set forth in paragraph (1) of
- 10    subdivision (a) of Section 17041 shall be modified by each of the
- 11    following:
- 12    (i) For that portion of taxable income that is over one hundred
- 13    thirty thousand dollars (\$130,000) but not over two hundred sixty
- 14    thousand dollars (\$260,000), the tax rate is 10 percent of the
- 15    excess over one hundred thirty thousand dollars (\$130,000).

1 (ii) For that portion of taxable income that is over two hundred  
2 sixty thousand dollars (\$260,000), the tax rate is 11 percent of the  
3 excess over two hundred sixty thousand dollars (\$260,000).

4 (B) The income tax brackets specified in this paragraph shall  
5 be recomputed, as otherwise provided in subdivision (h) of Section  
6 17041, only for taxable years beginning on and after January 1,  
7 2003, to which this section applies.

8 (2) (A) For any taxable year beginning on or after January 1,  
9 2002, and before the Director of Finance certifies pursuant to  
10 subdivision (b) that the prudent reserve threshold has been met, the  
11 income tax brackets and rates set forth in paragraph (1) of  
12 subdivision (c) of Section 17041 shall be modified by each of the  
13 following:

14 (i) For that portion of taxable income that is over one hundred  
15 seventy-six thousand nine hundred fifty dollars (\$176,950) but not  
16 over three hundred fifty-three thousand eight hundred ninety-nine  
17 dollars (\$353,899), the tax rate is 10 percent of the excess over one  
18 hundred seventy-six thousand nine hundred fifty dollars  
19 (\$176,950).

20 (ii) For that portion of taxable income that is over three  
21 hundred fifty-three thousand eight hundred ninety-nine dollars  
22 (\$353,899), the tax rate is 11 percent of the excess over three  
23 hundred fifty-three thousand eight hundred ninety-nine dollars  
24 (\$353,899).

25 (B) The income tax brackets specified in this paragraph shall  
26 be recomputed, as otherwise provided in subdivision (h) of Section  
27 17041, only for taxable years beginning on and after January 1,  
28 2003, to which this section applies.

29 (3) For any taxable year beginning on or after January 1, 2002,  
30 and for any taxable year thereafter for which this section is  
31 operative, the tax imposed pursuant to subparagraph (A) of  
32 paragraph (3) of subdivision (b) of Section 17062 is 8.5 percent.

33 (b) (1) No later than November 1 of 2002, and on or before  
34 each November 1 thereafter until he or she certifies that the  
35 prudent reserve threshold has been met, the Director of Finance  
36 shall do both of the following:

37 (A) Estimate whether, as of June 30 of the current fiscal year,  
38 the amount in the Special Fund for Economic Uncertainties, as  
39 established pursuant to Section 16418 of the Government Code,

1 *will exceed 3 percent of General Fund Revenues for the current*  
2 *fiscal year.*

3 *(B) Certify his or her estimate to the Governor and each house*  
4 *of the Legislature.*

5 *(2) For purposes of this subdivision, the Director of Finance*  
6 *certifies that the prudent reserve threshold has been met when he*  
7 *or she certifies, pursuant to paragraph (1), that the amount in the*  
8 *Special Fund for Economic Uncertainties as of June 30 of the*  
9 *current fiscal year is estimated to exceed 3 percent of General*  
10 *Fund revenues for the current fiscal year.*

11 *(c) This section shall remain in effect only until the January 1*  
12 *next following the Director of Finance's certification that the*  
13 *prudent reserve threshold had been met, and as of that date is*  
14 *repealed.*

15 *SEC. 2. Section 17276.3 of the Revenue and Taxation Code is*  
16 *amended to read:*

17 *17276.3. (a) Notwithstanding—Section Sections 17276,*  
18 *17276.1, 17276.2, 17276.4, 17276.5, 17276.6, and 17276.7 of this*  
19 *code and Section 172 of the Internal Revenue Code, no net*  
20 *operating loss deduction shall be allowed for all taxable years*  
21 *beginning in the 1991 and 1992 calendar years any taxable year*  
22 *beginning on or after January 1, 2002, and before January 1,*  
23 *2004.*

24 *(b) For any carryover of a net operating loss for which a*  
25 *deduction is denied by subdivision (a), the carryover period under*  
26 *Section 172 of the Internal Revenue Code shall be extended as*  
27 *follows:*

28 *(1) By one year, for losses sustained in taxable years beginning*  
29 *in 1991.*

30 *(2) By two years, for losses sustained in taxable years*  
31 *beginning prior to January 1, 1991.*

32 *(c) Notwithstanding any other provision of this section, a*  
33 *deduction shall be allowed to a "qualified taxpayer" as provided*  
34 *in Sections 17276.1 and 17276.2 for taxable years beginning in the*  
35 *1991 and 1992 calendar years.*

36 *(1) By one year, for losses incurred on or after January 1, 2002,*  
37 *and before January 1, 2003.*

38 *(2) By two years, for losses incurred before January 1, 2002.*

39 *SEC. 3. Section 19444 is added to the Revenue and Taxation*  
40 *Code, to read:*

1 19444. (a) (1) For the period beginning on October 1, 2002,  
2 and ending on June 30, 2003, an eligible taxpayer's liability, with  
3 respect to any unpaid taxes, may be satisfied by the payment of an  
4 eligible amount. The authority granted by this section is limited to  
5 an unpaid tax liability that has been determined by the Franchise  
6 Tax Board to be a high-risk collection account.

7 (2) The liability of an eligible taxpayer for any unpaid  
8 penalties, interest, and fees included in the computation of unpaid  
9 tax liability shall be extinguished only upon receipt by the  
10 Franchise Tax Board of all payments equal to the eligible amount  
11 on or before the final due date for payment established by the  
12 Franchise Tax Board.

13 (b) For purposes of this section, the following definitions shall  
14 apply:

15 (1) "Eligible taxpayer" means any taxpayer that receives  
16 notification from the Franchise Tax Board that the taxpayer's  
17 unpaid tax liability may be satisfied by the payment of an eligible  
18 amount.

19 (2) "Eligible amount" means an amount equal to any unpaid  
20 tax liability, excluding penalties, interest, and fees, owed by the  
21 eligible taxpayer that is paid in one or more installments, as  
22 determined by the Franchise Tax Board, on or before the due date  
23 established by the Franchise Tax Board, but in no event later than  
24 June 30, 2004.

25 (3) "High-risk collection account" means any unpaid tax  
26 liability of a taxpayer where satisfaction of that liability under this  
27 section would be in the best interest of the state, and shall include  
28 any unpaid tax liability for which the Franchise Tax Board has  
29 made either of the following determinations:

30 (A) Under the Franchise Tax Board's collection modeling  
31 policies, practices, and procedures, efforts to collect the unpaid  
32 tax liability would not be economical.

33 (B) The unpaid tax liability would not be paid in full within a  
34 reasonable period of time.

35 (4) "Unpaid tax liability" means any final assessment of  
36 liability under Part 10 (commencing with Section 17001),  
37 including tax, penalties, interest, and fees (other than an  
38 assessment resulting from a proposed assessment issued under the  
39 authority of Section 19087) that are owed by an individual and, as  
40 of October 1, 2002, are unpaid.



(c) No refund or credit shall be granted with respect to any penalty or interest paid with respect to an unpaid tax liability prior to October 1, 2002.

(d) The determinations made by the Franchise Tax Board pursuant to this section shall be final and conclusive and shall not be subject to review by any other officer, employee, or agent of the state, or by any court.

(e) Nothing in Section 19542, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used in connection with any determinations made by the Franchise Tax Board for purposes of this section, or the data used or to be used for determining those standards, if the Franchise Tax Board determines that the disclosure will seriously impair assessment, collection, or enforcement under this part.

(f) Nothing in this section shall authorize the Franchise Tax Board to compromise any final tax liability.

(g) The Legislature finds that it is essential for fiscal purposes that the special collection efforts authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued in implementing and administering the program required by this section.

(h) This section shall be operative with respect to unpaid tax liabilities on high-risk collection accounts that are the subject of notifications made to eligible taxpayers on or after October 1, 2002, and before July 1, 2003.

(i) This section shall remain in effect only until December 31, 2004, and as of that date is repealed.

SEC. 4. Section 23457 of the Revenue and Taxation Code, as amended by Section 37 of Chapter 35 of the Statutes of 2002, is amended to read:

23457. For purposes of this part, Section 57 of the Internal Revenue Code is modified as follows:

(a) Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest, shall not be applicable.

~~(b) Section 57(a) of the Internal Revenue Code, relating to items of tax preference, is modified to include as an item of tax preference the amount by which the deduction allowable under~~

1 ~~Section 24348 for the taxable year for a reasonable addition to a~~  
2 ~~reserve for bad debts exceeds the amount that would have been~~  
3 ~~allowable had the taxpayer maintained its bad debt reserve for all~~  
4 ~~taxable years on the basis of actual experience.~~

5 ~~(e)~~ Section 57(a)(6) of the Internal Revenue Code, relating to  
6 accelerated depreciation or amortization on certain property  
7 placed in service before January 1, 1987, is modified to read: With  
8 respect to each property as described in Section 1250(c) of the  
9 Internal Revenue Code as that provision read on April 1, 1970, the  
10 amount by which the deduction allowable for the taxable year for  
11 exhaustion, wear, tear, obsolescence, or amortization exceeds the  
12 depreciation deduction that would have been allowable for the  
13 taxable year, had the taxpayer depreciated the property under the  
14 straight line method for each taxable year of its useful life  
15 (determined without regard to Section 24354.2 or 24381) for  
16 which the taxpayer has held the property.

17 *SEC. 5. Section 24348 of the Revenue and Taxation Code is*  
18 *amended to read:*

19 24348. (a) ~~(1)~~ There shall be allowed as a deduction either  
20 of the following:

21 ~~(A)~~—

22 (1) Debts which become worthless within the taxable year in an  
23 amount not in excess of the part charged off within that taxable  
24 year.

25 ~~(B)~~—

26 (2) In the case of a ~~savings and loan association, bank, or~~  
27 ~~financial corporation~~, in lieu of any deduction under subparagraph  
28 ~~(A) paragraph (1)~~, in the discretion of the Franchise Tax Board,  
29 a reasonable addition to a reserve for bad debts *determined in*  
30 *accordance with Section 585 of the Internal Revenue Code,*  
31 *relating to reserves for losses on loans of banks, except as*  
32 *otherwise provided.*

33 ~~(2)~~—

34 (b) When satisfied that a debt is recoverable in part only, the  
35 Franchise Tax Board may allow that debt, in an amount not in  
36 excess of the part charged off within the taxable year, as a  
37 deduction; provided, however, that if a portion of a debt is claimed  
38 and allowed as a deduction in any year, no deduction shall be  
39 allowed in any subsequent year for any portion of the debt which



1 in any prior year was charged off, regardless of whether claimed  
2 as a deduction in that prior year.

3 ~~(b) (1) The amendments to this section made during the~~  
4 ~~1985-86 Regular Session by the act adding this subdivision shall~~  
5 ~~apply only to taxable years beginning after December 31, 1987.~~

6 ~~(2) In the case of any taxpayer who maintained a reserve for bad~~  
7 ~~debts for that taxpayer's last taxable year beginning before January~~  
8 ~~1, 1988, and who is required by the amendments to this section to~~  
9 ~~change its method of accounting for any taxable year, all of the~~  
10 ~~following shall apply:~~

11 ~~(A) That change shall be treated as initiated by the taxpayer.~~

12 ~~(B) That change shall be treated as made with the consent of the~~  
13 ~~Franchise Tax Board.~~

14 ~~(C) The net amount of adjustments required by Article 6~~  
15 ~~(commencing with Section 24721) of Chapter 13, to be taken into~~  
16 ~~account by the taxpayer shall:~~

17 ~~(i) In the case of a taxpayer maintaining a reserve under former~~  
18 ~~subdivision (b) (prior to the amendments made during the~~  
19 ~~1985-86 Regular Session by the act adding this subdivision), be~~  
20 ~~reduced by the balance in the suspense account under paragraph~~  
21 ~~(4) of that subdivision as of the close of such last taxable year; and~~

22 ~~(ii) Be taken into account ratably in each of the first four~~  
23 ~~taxable years beginning after December 31, 1987.~~

24 ~~(c) (1) The amendments to this section made by the act adding~~  
25 ~~this subdivision shall apply only to taxable years beginning on or~~  
26 ~~after January 1, 2002.~~

27 ~~(2) In the case of any taxpayer that maintained a reserve for bad~~  
28 ~~debts for the taxpayer's last taxable year beginning before January~~  
29 ~~1, 2002, and that is required by the amendments to this section to~~  
30 ~~change its method of computing reserves for bad debts, all of the~~  
31 ~~following shall apply:~~

32 ~~(A) That change shall be treated as a change in a method of~~  
33 ~~accounting.~~

34 ~~(B) That change shall be treated as initiated by the taxpayer.~~

35 ~~(C) That change shall be treated as made with the consent of the~~  
36 ~~Franchise Tax Board.~~

37 ~~(D) The net amount of adjustments required by Article 6~~  
38 ~~(commencing with Section 24721) of Chapter 13 to be taken into~~  
39 ~~account by the taxpayer:~~

1 (i) Shall be determined by taking into account only “applicable  
2 excess reserves” (as defined in subdivision (d)), and

3 (ii) As so determined, shall be taken into account ratably in  
4 each of the first four taxable years beginning on or after January  
5 1, 2002.

6 (d) (1) Except as provided in paragraph (2), the term  
7 “applicable excess reserves” means the balance of the reserves  
8 described in former subparagraph (B) of paragraph (1) of  
9 subdivision (a) (prior to the amendments made by the act adding  
10 this subdivision) as of the close of the taxpayer’s last taxable year  
11 beginning before January 1, 2002.

12 (2) (A) The term “applicable excess reserves” means, in the  
13 case of a bank (as defined in Section 581 of the Internal Revenue  
14 Code) that was not a large bank (as defined in Section 585(c)(2))  
15 of the Internal Revenue Code for its first taxable year beginning  
16 on or after January 1, 2002, the excess (if any) of:

17 (i) The balance of the reserves described in former  
18 subparagraph (B) of paragraph (1) of subdivision (a) (prior to the  
19 amendments made by the act adding this subdivision) as of the  
20 close of the taxpayer’s last taxable year beginning before January  
21 1, 2002, over

22 (ii) An amount that is not less than the amount that would be the  
23 balance of those reserves as of the close of its last taxable year  
24 beginning before January 1, 2002, if the additions to those reserves  
25 for all taxable years had been determined under Section  
26 585(b)(2)(A) of the Internal Revenue Code.

27 (B) The opening balance of the reserve for bad debts as of the  
28 beginning of the first taxable year beginning on or after January  
29 1, 2002, shall be the balance determined under clause (ii) of  
30 subparagraph (A).

31 SEC. 6. Section 24416.3 of the Revenue and Taxation Code is  
32 amended to read:

33 24416.3. (a) Notwithstanding—~~Section~~ Sections 24416,  
34 24416.1, 24416.2, 24416.4, 24416.5, 24416.6, and 24416.7 of this  
35 code and Section 172 of the Internal Revenue Code, no net  
36 operating loss deduction shall be allowed for ~~all income years~~  
37 ~~beginning in the 1991 and 1992 calendar years~~ any taxable year  
38 beginning on or after January 1, 2002, and before January 1,  
39 2004.

(b) For any carryover of a net operating loss for which a deduction is denied by subdivision (a), the carryover period under Section 172 of the Internal Revenue Code shall be extended as follows:

~~(1) By one year, for losses sustained in income years beginning in 1991.~~

~~(2) By two years, for losses sustained in income years beginning prior to January 1, 1991.~~

~~(c) Notwithstanding any other provision of this section, a deduction shall be allowed to a “qualified taxpayer” as provided in Sections 24416.1 and 24416.2 for income years beginning in the 1991 and 1992 calendar years.~~

*(1) By one year, for losses incurred on or after January 1, 2002, and before January 1, 2003.*

*(2) By two years, for losses incurred before January 1, 2002.*

*SEC. 7. Section 24449 of the Revenue and Taxation Code is amended to read:*

24449. (a) Section 291 of the Internal Revenue Code, relating to special rules relating to corporate preference items, shall apply, except as otherwise provided.

~~(b) For purposes of this section:~~

~~(1) The reference in Section 291(a)(3) to “a deduction under this chapter” shall be modified to mean the deduction under Section 24348 of this part.~~

~~(2) The reference in Section 291(b)(1) of the Internal Revenue Code to “Section 263(c)” shall be modified to mean the deduction under Section 24423 of this part.~~

*SEC. 8. Article 4 (commencing with Section 30133) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:*

#### *Article 4. General Fund Surtax on Tobacco*

*30133. (a) In addition to the taxes imposed upon the distribution of cigarettes by Article 1 (commencing with Section 30101), Article 2 (commencing with Section 30121), Article 3 (commencing with Section 30131), and any other taxes in this chapter, there shall be imposed an additional surtax upon every distributor of cigarettes at the rate of twenty-five mills (\$0.025) for each cigarette distributed.*

1     **(b)** *The tax imposed under this section shall be imposed on*  
2 *cigarettes in the possession or under the control of every dealer*  
3 *and distributor on and after 12:01 a.m. on September 1, 2002.*

4     **30135.** *(a) Every dealer and wholesaler, for the privilege of*  
5 *holding or storing cigarettes for sale, use, or consumption, shall*  
6 *pay a floor stock tax for each cigarette in his or her possession or*  
7 *under his or her control in this state at 12:01 a.m. on September*  
8 *1, 2002, at the rate of two and one-half cents (\$0.025) for each*  
9 *cigarette.*

10    **(b)** *Every dealer and wholesaler shall file a return with the*  
11 *board on or before October 15, 2002, on a form prescribed by the*  
12 *board, showing the number of cigarettes in his or her possession*  
13 *or under his or her control at 12:01 a.m. on September 1, 2002. The*  
14 *amount of tax shall be computed and shown on the return.*

15    **(c)** *Every licensed cigarette distributor, for the privilege of*  
16 *distributing cigarettes and for holding or storing cigarettes for*  
17 *sale, use, or consumption, shall pay a cigarette indicia adjustment*  
18 *tax for each California cigarette tax stamp that is affixed to any*  
19 *package of cigarettes and for each unaffixed California cigarette*  
20 *tax stamp in his or her possession or under his or her control at*  
21 *12:01 a.m. on September 1, 2002, at the following rates:*

22     **(1)** *Sixty-two and one-half cents (\$0.625) for each stamp*  
23 *bearing the designation "25."*

24     **(2)** *Fifty cents (\$0.50) for each stamp bearing the designation*  
25 *"20."*

26     **(3)** *Twenty-five cents (\$0.25) for each stamp bearing the*  
27 *designation "10."*

28    *These amounts shall be reduced by a discount to a licensed*  
29 *distributor of eighty-five one hundredths of 1 percent (0.85%).*

30    **(d)** *Every licensed cigarette distributor shall file a return with*  
31 *the board on or before October 15, 2002, on a form prescribed by*  
32 *the board, showing the number of stamps in paragraphs (1), (2),*  
33 *and (3) of subdivision (c). The amount of tax shall be computed and*  
34 *shown on the return.*

35    **(e)** *The taxes required to be paid by this section are due and*  
36 *payable on or before October 15, 2002. Payments shall be made*  
37 *by remittances payable to the board and the payments shall*  
38 *accompany the forms required to be filed by this section.*

39    **(f)** *Any amount required to be paid by this section that is not*  
40 *timely paid shall bear interest at the rate and by the method*

1 established pursuant to Section 30202 from October 15, 2002,  
2 until paid, and shall be subject to determination, and  
3 redetermination, and any penalties provided with respect to  
4 determinations and redeterminations.

5 30137. Except for payments of refunds made pursuant to  
6 Article 1 (commencing with Section 30361) of Chapter 6, and  
7 reimbursement of the State Board of Equalization for expenses  
8 incurred in the administration and collection of the taxes imposed  
9 by this article, all moneys raised pursuant to the taxes imposed by  
10 this article shall be transmitted by the board to the Treasurer for  
11 deposit in the General Fund.

12 SEC. 9. Section 40016 of the Revenue and Taxation Code is  
13 amended to read:

14 40016. (a) A surcharge is imposed on the consumption in this  
15 state of electrical energy purchased from an electric utility on and  
16 after January 1, 1975-2003, at the rate of ~~one-tenth mill (\$0.0001)~~  
17 *three-tenths mill (\$0.0003)* per kilowatt-hour, or at the rate fixed  
18 determined pursuant to subdivision (b).

19 (b) ~~On and after July 1, 1983, the surcharge rate is that fixed by~~  
20 ~~the State Board of Equalization which is in effect on that date,~~  
21 ~~except as the Legislature may lower that rate. The Energy~~  
22 ~~Commission shall fix the rate at a public meeting in each~~  
23 ~~November for each calendar year starting the following January.~~  
24 ~~Under no circumstances may the rate fixed exceed three-tenths mill~~  
25 ~~(\$0.0003) per kilowatt-hour. If the commission fails to fix the rate~~  
26 ~~in any November, the surcharge shall continue at the rate in effect~~  
27 ~~during that November.~~

28 SEC. 10. It is the intent of the Legislature in enacting Section  
29 19444 of the Revenue and Taxation Code that, in order to improve  
30 compliance with state tax laws and to accelerate the collection of  
31 accounts determined to be at high risk for collection, the staff of  
32 the Franchise Tax Board shall, in an expeditious manner, institute  
33 special collection procedures for the period beginning on October  
34 1, 2002, and ending on June 30, 2003.

35 ~~act to make the necessary statutory changes to implement the~~  
36 ~~Budget Act of 2002 relative to elementary and secondary~~  
37 ~~education, community colleges, and the state's minimum funding~~  
38 ~~obligation to school districts and community college districts~~  
39 ~~under Section 8 of Article XVI of the California Constitution for~~  
40 ~~prior fiscal years.~~

1     ~~SEC. 2.—~~

2     *SEC. 11.* This act is an urgency statute necessary for the  
3 immediate preservation of the public peace, health, or safety  
4 within the meaning of Article IV of the Constitution and shall go  
5 into immediate effect. The facts constituting the necessity are:

6     In order to make the necessary statutory changes to implement  
7 the Budget Act of 2002 at the earliest possible time, it is necessary  
8 that this act take effect immediately.

